

An ACT to extend the Provisions of an Act passed in the forty-eighth year of his Majesty's reign, intituled, "An Act to Explain, Amend and Reduce to one Act of Parliament the several Laws now in being for the Raising and Training the Militia of this Province."

[Passed 6th March, 1812.]

WHEREAS an Act passed in the forty-eighth year of his present Majesty's reign, intituled, "An Act to explain, amend and reduce to one Act of Parliament the several Laws now in being, for the raising and training the Militia of this Province," is found insufficient for the purposes thereby intended; Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of his Majesty's Reign, intituled, "An Act for making more effectual provision for the government of the Province of Quebec, in North America, and to make further provision for the government of the said Province," and by the authority of the same, That there shall be to every Battalion of Militia now or hereafter to be formed in this Province, (the strength of which will admit thereof) two flank Companies, to consist of not more than one hundred men each, nor in any case to compose more than one third of the strength of such Battalion, and also all Independent Companies belonging to any County, Riding or Place, shall provide their quota, to compose one or more flank Company or Companies, but in no case to exceed one third of such Independent Company or Companies, to be selected and formed from among such Militia men, as shall at any meeting or meetings of any such Battalion or Independent Companies, volunteer for that purpose. And if it should so happen that a sufficient number of persons shall not at any such meeting or meetings, volunteer for the purpose aforesaid, then and in such case the deficiency shall be made up by ballot from the Militia men of such Battalion, or Independent Company or Companies, who shall be under the age of forty years.

II. *Provided always nevertheless,* That when it shall happen that two or more persons shall be called upon service from one family, that one of them shall be excused for that time, unless it shall appear to the Officer Commanding such Company of Militia, that there is another person living in the same house, capable of taking care of the said family, who is not then called into actual service; and also that when a widow or aged person, shall at the time of making the said ballot, depend for her, or his maintenance on a Son, Grandson or Apprentice, such Son, Grandson, or Apprentice, shall be excused from service, while supporting such widow or aged person.

III. *And be it further enacted by the authority aforesaid,* That when any such flank Company shall be formed, it shall and may be lawful for the Captain or Officer Commanding the same, to call out such Company, and he is hereby required so to do, six days in each Month, for the purpose of being trained and exercised, as may be directed by the Governor, Lieutenant Governor, or Person administering the Government, and such Company shall continue its training not exceeding the said six days in every month, until it is found that the men composing the same, are duly instructed in their exercise. *Provided always,* that the Officer Commanding such Company, shall always after the said Company shall be pronounced duly instructed, have it in his power to call out such Company one day in each month to be exercised and reviewed, and oftener if he shall be so directed by the Governor, Lieutenant Governor, or person administering the Government. *Provided also,* that such flank Company or Companies being called out for the purpose of training, it shall not be lawful for any Field Officer, except such as may be specially appointed for that purpose, by the Governor, Lieutenant Governor, or Person administering the Government, to command, or otherwise interfere in the said training or exercising.

IV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to, and for the Governor, Lieutenant Governor, or Person administering the Government, from time to time, as occasion may require, to appoint such and so many Staff Officers to the Militia of this Province, as he may think necessary, and also from time to time to remove any Militia Officer, now or hereafter to be appointed, and appoint another in his stead.

V. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the Governor, Lieutenant Governor, or Person administering the Government, as often as occasion shall require, to order any and every of the said Companies, to march to any part of this Province, upon any such duty as he shall think necessary.

VI.

VI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Captain, or other Officer commanding any Company of Militia, if he shall think necessary, to divide his Company into squads of such number as to him shall seem proper, and the convenience of the men of such Company shall require, and that the Captain, or other Officer Commanding any such Company, as aforesaid, shall always appoint some fit and proper person to exercise and instruct in Military discipline, the men to be assembled at each of the said squad meetings, and that if any non Commissioned Officer or Private shall refuse to obey the lawful orders of his superior Officer when employed on Militia duty, or shall quarrel with, or insult by abusive words, or otherwise, any Officer, or Non-Commissioned Officer, being in the execution of his duty, or otherwise misbehave himself whilst on duty as aforesaid, it shall and may be lawful to and for the Commanding Officer then and there present, to order every such offender or offenders to be taken into custody, and forthwith tried by a Court Martial, to be composed of three or more Officers of the said Militia, who, upon proof of the offence by the Oath of one or more credible witnesses or witnesses, (which Oath the President of the said Court Martial is hereby authorized to administer) shall and may order and sentence every such offender to pay a fine, not exceeding five pounds, nor less than five shillings, at the discretion of the Court, and according to the nature of the offence, and in default of payment, commit such offender to the common Gaol of the District, for a term not exceeding one month, nor less than three days, or until the amount of such fine shall be paid, any law to the contrary in any wise notwithstanding.

VII. *And be it further enacted by the authority aforesaid,* That in all trials by any Court Martial, other than General Courts Martial, the person appointed to be President thereof, shall administer to each of the other Members, the following Oath: *You A B. do swear that you will administer Justice to the best of your understanding in the matter now before you, according to the Militia Laws of this Province, and the evidence which shall be produced before you, without partiality, favour or affection.*—So help you God. And as soon as the said Oath shall have been administered by the President to the other Members, any one of the said Members shall administer the said Oath to the President.

VIII. *And be it further enacted by the authority aforesaid,* That whenever it shall so happen that there shall not be a sufficient number of Officers present to compose a Court as aforesaid, it shall and may be lawful to and for the Commanding Officer to detain such offender in custody, until a Court can be assembled, for the trial of such offender; Provided such Court can be obtained within twelve hours from the time of such confinement, and in case a Court as herein before directed, cannot be assembled within twelve hours, such offender shall be released from such confinement, and tried under the provisions of the Act of the forty-eighth of the King, intituled, "An Act to explain, amend and reduce to one Act of Parliament, the several Laws now in being, for the raising and training the Militia of this Province."

IX. *And be it further enacted by the authority aforesaid,* That if any person or persons shall presume to disturb, interrupt, or molest, any party of Militia, whilst on duty, it shall and may be lawful to and for the Commanding Officer of such party, to order any such person or persons to be carried before any one of his Majesty's Justices of the Peace, who shall be next to the place where the offence may be committed, who upon proof of the offence by the oath of one or more witnesses or witnesses, shall and may order and adjudge every such offender to pay a fine not exceeding five pounds, nor less than ten shillings, and in default of payment, to commit him to the common Gaol of the District, for a term not exceeding one month, nor less than ten days, unless the fine is sooner by him paid.

X. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the Governor, Lieutenant Governor or Person administering the Government, from time to time, and as often as occasion shall require, to make such regulations as he shall think necessary, for the care and custody of any Arms and Accoutrements provided and supplied in order to the instruction of the Militia men to be trained and exercised; and also from time to time as occasion may require, by any order or orders to be made and issued for that purpose, to declare and establish the dress and uniform, to be worn by any and every part of the Militia of this Province. *Provided always,* that nothing herein contained, shall be construed to oblige any Militia man to provide any uniform at his own expence.

XI. *And be it further enacted by the authority aforesaid,* That so much of the said Act passed in the forty-eighth year of the King, intituled, "An Act to explain, amend and reduce to one Act of Parliament, the several Laws now in being, for the raising and training the Militia

Militia of this Province," as directs that no Company of Militia shall consist of more than fifty men, shall be and the same is hereby repealed, and that every Company shall and may consist of a number not exceeding one hundred men.

XII. And whereas it may be convenient to form one or more Company or Companies of Riflemen in this Province, *Be it enacted by the authority aforesaid*, That it shall and may be lawful for the Governor, Lieutenant Governor, or Person administering the Government of this Province, to form and embody such Company or Companies, and employ the same on such duties as the necessity of the service may require.

XIII. *And be it further enacted by the authority aforesaid*, That every Officer of the Militia of this Province, shall on or before the fourth day of June next; and every Officer who may after that day be appointed, within eight days after he shall have received his Commission, before one or more of his Majesty's Justices of the Peace, for the District to which his Regiment, Battalion or Company shall belong, take and subscribe the following Oath, to wit: *I A. B. do sincerely promise and swear, that I will be faithful and bear true allegiance to his Majesty, King George the Third, as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of this Province, as dependant thereon, and that I will defend him to the utmost of my power against all traitorous conspiracies and attempts whatsoever, which shall be made against his Person, Crown and Dignity, and particularly his Dominions in North America, and that I will do my utmost endeavour to disclose and make known to his Majesty, his heirs or successors, all treasons and traitorous conspiracies and attempts, which I shall know to be against him, or any of them, and to all this I do swear without any equivocation, mental evasion, or secret reservation, and renouncing all pardons and dispensations from any person or power whatsoever, to the contrary. So help me God.*

XIV. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful to and for the Governor, Lieutenant Governor, or Person administering the Government, to order and direct that the Non-Commissioned Officers and Privates, of any and every Regiment, Battalion, Company or body of Militia in this Province, shall be called upon to take and subscribe the said Oath of Allegiance, and that upon receiving any orders for that purpose, it shall and may be lawful, to and for the Commanding Officer of such Regiment, Battalion or Company, and he is hereby required to call upon every Non-Commissioned Officer or Private of his Regiment, Battalion or Company, to take and subscribe the said Oath, before one or more of his Majesty's Justices of the Peace for the District to which such Regiment, Battalion, or Company shall belong, which Oath shall be administered free of expence, and that every Justice of the Peace administering such Oath, shall forward a Certificate thereof, to the Clerk of the Peace of the District to be enrolled, which such Clerk of the Peace is hereby required to do free of expence; and if any Officer, Non Commissioned Officer, or Private, (having been required so to do) shall refuse or neglect to take and subscribe the said Oath, in manner hereby directed, upon conviction before any General Quarter Sessions of the Peace, or in time of actual Invasion or Insurrection, before any Court Martial, every such person or persons shall be deemed and taken to be an alien, and shall be liable and subject to any law or laws now in force, or hereafter to be made, respecting or against aliens.

XV. *And be it further enacted by the authority aforesaid*, That so much of the said Act as directs that any Body or Detachment of Militia, which may be called out by the Governor, Lieutenant Governor, or Person administering the Government, shall and may be detained on such service, for and during the space of six months at one time, and no longer, shall be and the same is hereby repealed.

XVI. *And be it further enacted by the authority aforesaid*, That at the expiration of six months, from the time of any such Detachment being called out as aforesaid, one third of the men of such Detachment shall be selected by ballot, and if relieved by an equal number of men, shall be discharged, and at the expiration of seven months from the time of calling out such Detachment, another third shall be selected, and if relieved, discharged in like manner, and at the expiration of eight months, the remaining third, if relieved, shall be discharged.

XVII. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful to and for any Colonel or other Officer Commanding any Regiment, Battalion, or Company, and he is hereby required to call out his Regiment, Battalion, or Company, whenever he shall be directed so to do, for the purpose of being Inspected or Reviewed, by any Inspecting Field Officer of Militia, or other Field Officers of the line, who may be sent for that purpose; and that Lieutenant Colonels in his Majesty's Army, serving with any part of the Militia in this Province, shall command all Militia Officers whatever, any thing in the said in part recited Act to the contrary notwithstanding.

XVIII. *And be it further Enacted by the authority aforesaid,* That every Militia man, whose services may be accepted of in any volunteer Corps, now or hereafter to be raised, shall be exempted from serving as a Militia man under this or the before mentioned Act, whilst he shall belong to any such Corps as aforesaid, and also that every person serving in any flank Company, shall not be liable to any personal Arrest on any civil Process, or to serve as Juror, or to perform duty as a Town or Parish Officer, or Statute labour on the High-ways, during the time he shall continue in such flank Companies, any law to the contrary in any wise notwithstanding.

XIX. *And be it further enacted by the authority aforesaid,* That any Non-Commissioned Officer or Private Militia-man, who in any engagement with an enemy, or by any accident or casualty which may occur while on, or performing any duty in actual service, shall be killed, and shall leave a Widow, or Child or Children lawfully begotten, his said Widow shall be entitled to receive during her widowhood, and in case of the death of such Widow, then the eldest Child, or Guardian, for the use of the child or children of such Non-Commissioned Officer or Private Militia-man, until the youngest thereof, shall have attained the age of sixteen years, an annuity of five pounds lawful money of this Province, and also, that every Non-Commissioned Officer, or Private of Militia, who in any engagement with an enemy, or by any accident or casualty which may occur while on, or performing any duty in actual service, shall be wounded or disabled, so as to be rendered incapable of earning his livelihood, shall be allowed an annuity of nine pounds lawful money of this Province, during the time he shall continue under such incapacity.

XX. *And be it further enacted by the authority aforesaid,* That so much of an Act passed in the forty-eighth year of his Majesty's reign, intituled, "An Act to explain, amend and reduce to one Act of Parliament, the several laws now in being for the raising and training the Militia of this Province," as directs how Militia fines are to be disposed of, be and the same is hereby repealed.

XXI. *And be it further enacted by the authority aforesaid,* That all sums of money arising from fines, forfeitures and penalties, by this or the above recited Act imposed, together with a list of such fines, forfeitures and penalties shall, as soon after the thirty first day of December in every year, as practicable, be transmitted by the Magistrate or Officer respectively receiving the same, to the Receiver General of this Province, to be disposed of as the Governor, Lieutenant Governor, or Person administering the Government, shall direct, to purposes only that shall respect the said Militia, and which shall be accounted for to the Crown, through the Commissioners of his Majesty's treasury, for the time being, as the Crown shall direct.

XXII. *Provided always,* That this present Act shall continue and be in force until the first day of January next, and from thence to the end of the then next ensuing Session of the Legislature of this Province, and no longer.